

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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Case No. 1-10-42609-jbr

Chapter 11

In re:

80-20 Realty Management, Inc.

**OBJECTION TO
CONFIRMATION**

Debtor.

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TO THE HONORABLE JOEL B. ROSENTHAL, UNITED STATES BANKRUPTCY JUDGE:

CVM Partners 1, LLC ("CVM Partners 1"), a secured creditor in the above-captioned case, by its attorneys, hereby objects to the Confirmation of debtor 80-20 Realty Management, Inc. (the "Debtor")'s Amended Plan of Reorganization dated December 30, 2010 (the "Plan") for the following reasons:

PRELIMINARY STATEMENT

1. I am an attorney duly admitted to practice in the State of New York and before the United States District Court for the Eastern District of New York.
2. I am a member of the law firm of Drake, Loeb, Heller, Kennedy, Gogerty, Gaba & Rodd PLLC, attorneys for CVM Partners 1, and am fully familiar with the facts and circumstances set forth herein.
3. On March 26, 2010, Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.
4. On April 23, 2010, CVM Partners 1 timely filed proofs of claim in this matter. CVM Partners 1 is a secured creditor pursuant to certain mortgages executed by Debtor in favor of CVM Partners 1, which mortgages are liens on the Debtor's real property located at 80 Conklin Avenue, Binghamton, New York and 20 Conklin Avenue, Binghamton, New York.

[Claim Nos. 2 and 3].

5. In resolution of CVM Partners 1's objection to the Debtor's original plan of reorganization, the Debtor and CVM Partners 1 agreed as follows: (i) the applicable interest rate for both mortgages of 7.5% shall be temporarily reduced to 5.5% for the life of Plan; (ii) interest at the rate of 2.0%, being the difference between 7.5% and 5.5%, shall continue to accrue and will be added to the outstanding principal during the life of Plan; and (iii) all unpaid pre- and post-petition arrears shall be added to the outstanding principal amount.

6. The Debtor attempted to incorporate this agreement in the Article II(c) of Plan, which states as follows:

(b) Class 3 shall consist of the secured claim of CVM Partners 1, LLC, which holds mortgages on both the 20 Conklin Avenue and the 80 Conklin Avenue properties. As of the date of this Plan the principal balance due to CVM Partners on the 20 Conklin Avenue mortgage is \$228,611.22 and on the 80 Conklin Avenue mortgage is \$414,426.67. Prior to the Filing Date, the Debtor was in default two payments on each mortgage and it owes late charges and legal fees. The amount of arrears on the 20 Conklin Avenue mortgage is \$3,374.30 and on the 80 Conklin Avenue mortgage is \$9,410.22. The interest rate on the note and mortgage held by CVM Partners will be reduced to 5.5% for four years from the Effective Date, but the difference between 7.5% and 5.5% shall continue to accrue and will be added to the outstanding principal of each mortgage. The amount of the arrears shall be added to the principal of each mortgage. CVM Partners shall retain its liens

on the 20 Conklin Avenue and 80 Conklin Avenue properties until its mortgages are fully satisfied. The claims of CVM Partners are impaired and CVM is entitled to vote on the Plan.

OBJECTION TO CONFIRMATION

7. CVM Partners 1's objects to the confirmation of the Plan, and specifically the statements contained in Article II(c) thereof, as it fails to state the correct unpaid principal balances of the CVM Partners 1 mortgages and does not set forth what the agreed upon reduced payment amount will be for each mortgage during the life of the Plan.

8. Article II(c) of the Plan should be amended to reflect that: (a) the correct amount of the unpaid principal balance due on the 20 Conklin Avenue mortgage (CVM Partners 1's Loan No. 113230005) as of December 30, 2010 is \$234,816.97 and not \$228,611.22 as stated therein; and (b) the correct amount of the unpaid principal balance due on the 80 Conklin Avenue mortgage (CVM Partners 1's Loan No. 113230004) as of December 30, 2010 is \$423,677.30 and not \$414,426.67 as stated therein. Copies of the loan histories confirming these balances are attached hereto as Exhibit "A".

9. Article II(c) of the Plan should also be amended for the protection of all parties by stating what the agreed upon reduced mortgage payments will be during the life of the Plan. It is respectfully submitted that the following language be added:

"Pursuant to the terms hereof, for the four years of the Plan commencing as of the Effective Date, the monthly payment due on the 20 Conklin Avenue mortgage (CVM Partners 1's Loan No. 113230005), shall be \$1,423.37 and thereafter the monthly payment shall be \$1,894.91, and the monthly payment due on the 80 Conklin Avenue

mortgage (CVM Partners 1's Loan No. 113230004) shall be \$2,568.17 for the four years of the Plan, commencing as of the Effective Date, and thereafter the monthly payment shall be \$3,445.52."

10. These objections are to correct and clarify CVM Partner 1's interests and, it is respectfully submitted, do not materially or adversely affect the interests of any other parties who have voted for or against the Plan or who are entitled to vote on the Plan.

CONCLUSION

11. Based on the foregoing, CVM Partners 1 objects to the confirmation of the Plan.

Dated: March 2, 2011
New Windsor, New York

DRAKE, LOEB, HELLER, KENNEDY,
GOGERTY, GABA & RODD, PLLC

By: 

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Hon. Joel B. Rosenthal, USBJ
United States Bankruptcy Court
225 Cadman Plaza East
Brooklyn, NY 11201

United States Bankruptcy Court
225 Cadman Plaza East
Brooklyn, NY 11201

United States Trustee
271 Cadman Plaza East
Suite 4529
Brooklyn, NY 11201

Exhibit A

03/02/11

RECAST ADJUSTMENT WORKSHEET

11222000

days in a year -> 360

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11

10

100

104

11

2000

2

100

28

No Arrearage Payments received; \$3,374.30 for 2 months still due.
 Deferred Interest \$2,991.48
 Total Arrearage = \$6,365.78

03/02/11

RECAST ADJUSTMENT WORKSHEET

D102 3/1/11

Non Accrued Payments received \$0.410.22 for 2 months and local still due
Due 3/1/11

NU Almedal

Deutsche
Tatze Ausgabe

Total Area